BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 3228

RANDY ALLEN COSTERE

412 Hillcrest Drive Aptos, CA 95003

Original Pharmacy Technician Registration No. TCH 44904

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 28, 2010.

It is so ORDERED on December 29, 2009.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

Benneth H. Scheel

By

KENNETH H. SCHELL

Board President

1 2 3 4 5	EDMUND G. BROWN JR. Attorney General of California FRANK H. PACOE Supervising Deputy Attorney General JOSHUA A. ROOM Deputy Attorney General State Bar No. 214663 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Telephone: (415) 703-1299 Facsimile: (415) 703-5480 Attorneys for Complainant		
7		יינויים פו	
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AREA IDS		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against:	Case No. 3228	
12	RANDY ALLEN COSTERE 412 Hillcrest Drive		
13	Aptos, California 95003	STIPULATED SURRENDER OF LICENSE AND ORDER	
14	Pharmacy Technician License No. TCH 44904		
15	Respondent.		
16			
17	In the interest of a prompt and speedy resolution of this matter, consistent with the public		
18	interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs		
19	the parties hereby agree to the following Stipulated Surrender of License and Order which will be		
20	submitted to the Board for approval and adoption as the final disposition of the Accusation.		
21		•	
22	<u>PARTIES</u>		
23	1. Virginia Herold (Complainant), Exe	cutive Officer of the Board of Pharmacy, brought	
24	this action solely in her official capacity and is represented in this matter by Edmund G. Brown		
25	Jr., Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.		
26	2. Randy Allen Costere (Respondent) is representing himself in this proceeding and has		
27	chosen not to exercise his right to be represented by counsel.		
28			

3. On or about October 17, 2002, the Board of Pharmacy issued Pharmacy Technician License No. TCH 44904 to Randy Allen Costere (Respondent). The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 3228 and will expire on August 31, 2010, unless renewed.

JURISDICTION

4. Accusation No. 3228 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 14, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 3228 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read and understands the charges and allegations in Accusation No. 3228. Respondent also has carefully read and understands the effects of this Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 3228, agrees that cause exists for discipline, and hereby surrenders his Pharmacy Technician License No. TCH 44904 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacy Technician License without further process.

RESERVATION

10. The admissions made by Respondent herein are only for purposes of this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

- 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board) may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 44904, issued to Respondent Randy Allen Costere, is surrendered and accepted by the Board of Pharmacy.

- 14. The surrender of Respondent's Pharmacy Technician License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.
- 15. Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.
- 16. Respondent shall cause to be delivered to the Board both his wall license certificate and, if one was issued, pocket license on or before the effective date of the Decision and Order.
- 17. Respondent may not apply, reapply, or petition for any licensure or registration of the Board for three (3) years from the effective date of the Decision and Order.
- 18. Respondent understands and agrees that if he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 3228 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.
- 19. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 3228 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.
- 20. Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$4,467.75 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 15/15/08

R'ANDY ALLEN COSTERE Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: June 24, 2009

Respectfully Submitted,

EDMUND G. BROWN JR. Attorney General of California FRANK H. PACOE Supervising Deputy Attorney General

JOSHUA A. ROOM
Deputy Attorney General
Attorneys for Complainant

SF2008201014 40348277.docx

Exhibit A

Accusation No. 3228

))			
1	EDMUND G. BROWN JR., Attorney General		
2	of the State of California FRANK H. PACOE		
3	Supervising Deputy Attorney General JOSHUA A. ROOM, State Bar No. 214663		
4	Deputy Attorney General 455 Golden Gate Avenue, Suite 11000		
5	San Francisco, CA 94102-7004 Telephone: (415) 703-1299		
6	Facsimile: (415) 703-5480		
7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
9	STATE OF CAL	IFORNIA	
10	In the Matter of the Accusation Against:	Case No. 3228	
11	RANDY ALLEN COSTERE		
12	412 Hillcrest Drive Aptos, California 95003	ACCUSATION	
13	Pharmacy Technician License No. TCH 44904		
14			
15	Respondent.		
16	Complainant alleges:		
17	<u>PARTIES</u>		
18	1. Virginia Herold (Complainan	t) brings this Accusation solely in her official	
19	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
20	2. On or about October 17, 2002, the Board of Pharmacy issued Pharmacy		
21	Technician License Number TCH 44904 to Randy Allen Costere (Respondent). The Pharmacy		
22	Technician License was in full force and effect at all times relevant to the charges brought herein		
23	and will expire on August 31, 2010, unless renewed.		
24	·		
25	JURISDICTION		
26	3. This Accusation is brought before the Board of Pharmacy (Board),		
27	Department of Consumer Affairs, under the authority of the following laws. All section		
28	references are to the Business and Professions Code (Code) unless otherwise indicated		

- 4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].
- 5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.
- 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the Board if not renewed within 60 days after its expiration, and any license canceled in this fashion may not be reissued but will instead require a new application to seek reissuance.

STATUTORY PROVISIONS

- 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:
- (h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
- (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.
- (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy...

28

4022. It is a narcotic analgesic used for relief of moderate to severe pain.

- 15. Ativan is a brand name for lorazepam, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(16) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug.
- 16. **Xanax** is a brand name for **alprazolam**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug.

FACTUAL BACKGROUND

- 17. By his own admission, Respondent has had, since at least January 2007, an addiction to narcotics or other controlled substances and/or dangerous drugs, primarily brand and generic drugs containing hydrocodone (e.g., Norco) or oxycodone (e.g., Percocet).
- 18. Between at least January 2007 and September 2007, Respondent ingested and self-administered significant quantities of controlled substances and dangerous drugs, mostly **hydrocodone** drugs, but also some **oxycodone** drugs, **lorazepam**, and/or **alprazolam**. The exact number of drugs consumed is not known, but between February 5, 2007 and August 20, 2007, an average of at least 15 tablets of controlled substances were used by Respondent, a number that would have affected Respondent's ability to function and perform safely in a pharmacy.
- 19. During all or most of this time period from January 2007 to and including September 2007, Respondent was employed as a pharmacy technician at the Dominican Hospital Pharmacy (PHY 45521) in Santa Cruz, CA. This employment ended on or about April 15, 2008. For some or all of the January to September 2007 period, the duties of his employment included selling, dispensing or compounding dangerous drugs. For some or all of this period, Respondent was under the influence of one or more controlled substances while engaged in this employment.
- 20. On or about May 10, 2008, officers from the Santa Cruz County Sheriff's Office were called to the residence of Respondent's parents, where Respondent was in the front yard exhibiting signs of substance and/or alcohol abuse, including unsteadiness, vomiting, and belligerence. Respondent was arrested pursuant to Penal Code section 647, subdivision (f), for public intoxication or drug abuse (unable to care for his own safety or the safety of others). He was subsequently released without charges being filed pursuant to Penal Code section 849.

- '

FIRST CAUSE FOR DISCIPLINE

(Dangerous or Injurious Use of Alcohol and/or Drugs)

21. Respondent is subject to disciplinary action under section 4301(h) of the Code, in that as described in paragraphs 17-20 above, between at least January and September 2007, Respondent self-administered and/or used controlled substances, dangerous drugs, and/or alcoholic beverages to an extent or in a manner so as to be dangerous or injurious to himself or to others, or to the extent that the use impairs his ability to conduct with safety to the public the practice authorized by his Pharmacy Technician License.

SECOND CAUSE FOR DISCIPLINE

(Selling, Dispensing, or Compounding While Under the Influence)

22. Respondent is subject to disciplinary action under section 4301(j) and/or (o) of the Code, and section 4327 of the Code, in that as described in paragraphs 17-20 above, between at least January and September 2007, Respondent sold, dispensed or compounded one or more drugs while under the influence of a dangerous drug, and/or directly or indirectly attempted, conspired, and/or assisted in or abetted such conduct.

THIRD CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substance)

23. Respondent is subject to disciplinary action under section 4301(j) and/or (o) of the Code, and Health and Safety Code section 11170, in that as described in paragraphs 17-20 above, between at least January and September 2007, Respondent self-administered one or more controlled substances in an improper or abusive manner, and/or directly or indirectly attempted, conspired, and/or assisted in or abetted such conduct.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

A. Revoking or suspending Pharmacy Technician License Number TCH 44904, issued to Randy Allen Costere (Respondent);

1	B. Ordering Respondent to pay the Board reasonable costs of investigation		
2	and enforcement of this case, pursuant to Business and Professions Code section 125.3;		
3	C. Taking such other and further action as is deemed necessary and proper.		
4			
5	DATED: 44/10/09		
6			
7			
8	VIRGINIA HEROLD		
9	Executive/Officer / Board of Pharmacy		
10	Department of Consumer Affairs State of California		
11	Complainant		
12			
13	SF2008201014		
14	40278314.wpd		
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			